

BOSTON GLOBE
20 February 1986

Order will allow death penalty for military peacetime spying

By Walter V. Robinson
Globe Staff

WASHINGTON - Acting without fanfare, President Reagan yesterday signed an executive order that will allow the use of the death penalty for military personnel convicted of serious espionage charges in peacetime.

The president's action, announced in a terse, two-sentence statement that made no mention of the death penalty, implements the provisions of an amendment that passed the Congress last year as part of a Defense Authorization bill.

Rep. Bill McCollum (R-Fla.), the sponsor of the amendment, said last night that the provision should act as a strong deterrent to stem the rash of military espionage cases that surfaced last year.

"Anytime you have a crime as grave and as premeditated as espionage, you have the best situation for deterrence to work, unlike the situation with crimes of passion,"

McCollum said in an interview last night.

The executive order caps the first successful effort to reinstitute the death penalty for a federal crime. Efforts to reinstitute capital punishment for civilian espionage cases and for presidential assassinations have been bottled up by the House Judiciary Committee.

Reagan's implementing order, which McCollum says meets the guidelines imposed by the US Supreme Court, creates new language for the Uniform Code of Military Justice, which governs military courts-martial.

It stipulates that any attempt to convey national security information to damage the United States or assist a foreign nation amounts to espionage. And it adds language making it a capital crime when the information is of a serious nature.

It says, "...if the accused is found guilty of any offense that directly concerns (A) nuclear weap-

onry, military spacecraft or satellites, early warning systems, or other means of defense or retaliation against large-scale attack (B) war plans, (C) communications intelligence or cryptographic information, or (D) any other major weapons system or major element of defense strategy, the accused shall be punished by death or such other punishment as a court-martial may direct."

The provisions take effect March 1.

There is a provision for use of the death penalty for military personnel in wartime.

McCollum said the new provision is not retroactive.

McCollum, who expressed puzzlement that the White House did not seek to publicize the change, said the intent of the amendment "was to have a new crime of peacetime espionage for the military and have a constitutionally valid procedure for a court to impose the death penalty. Now we have that."